

UNITED STATES INTERNATIONAL TRADE COMMISSION

**COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004):
EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO
BOYS' APPAREL OF CERTAIN POLYESTER FABRICS
FROM CARIBBEAN BASIN COUNTRIES**

Investigation No. 332-458-024

January 2005



Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-024

Products	Boys' apparel of certain polyester fabrics
Requesting Parties	Fishman & Tobin, Inc., Conshohocken, PA
Date of Commission Report USTR Public	January 24, 2005 January 2005
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NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR
ON JANUARY 24, 2005. ALL CONFIDENTIAL INFORMATION HAS BEEN
REMOVED AND REPLACED WITH ASTERISKS (***)

Summary of Findings

The fabrics named in the petition filed by Fishman & Tobin with the Committee for the Implementation of Textile Agreements (CITA) in December 2004, and under review in this report, are similar to those named in the petition that it filed with CITA in July 2004. CITA denied Fishman & Tobin's first petition, stating that the subject polyester fabrics could be supplied by the domestic industry in commercial quantities in a timely manner.¹ In the current petition, Fishman & Tobin narrowed the fabric coverage to certain polyester fabrics made of "at least three different colored yarns" and used in "boys' suits, suit-type jackets and blazers, and trousers, in sizes 2T-20."² The lone U.S. fabric producer that submitted a written statement in opposition to the July 2004 petition, the International Textile Group (ITG - Burlington Division), states that it does not make the fabrics named in the current petition.³ In addition, the current petition states that, in discussions between Fishman & Tobin and ITG officials, "it was agreed that the mill [Burlington] does not . . . object to the instant petition, so long as it is limited to polyester fabrics containing at least three different colored yarns."⁴

The Commission is unaware of any firm that makes the subject fabrics in the United States; however, ITG makes polyester fabrics in the United States that may be substitutable for the subject fabrics. The Commission in the current review finds that granting duty-free and quota-free treatment to U.S. imports of the specified boys' apparel made in eligible Caribbean Basin countries from the subject fabrics, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. yarn and fabric producers and their workers. The proposed preferential treatment would likely have no adverse effect on U.S.

¹ CITA's decision regarding the polyester fabrics named in the July 2004 petition appeared in the *Federal Register* of Oct. 12, 2004 (69 F.R. 60618). The fabrics are identified in the CITA notice as "Fabric 3 - Fancy Polyester Filament Fabric." The U.S. International Trade Commission conducted its review of the fabrics in its report, "Apparel of Fancy Polyester Filament Fabric," investigation No. 332-458-014, Sept. 2004.

² A discussion of the differences between the polyester fabrics named in the current petition and those named in the July 2004 petition appears in the section of this report entitled "discussion of the product."

³ Jeff Peck, Product Manager, ITG, Greensboro, NC, telephone interview by Commission staff, Jan. 2005.

⁴ See petition filed on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., New York, NY, received by CITA on Dec. 12, 2004, footnote 1, page 2.

apparel producers or their workers because there is no known domestic production of boys' polyester dress clothing. The proposed preferential treatment would likely benefit U.S. firms making the boys' apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with CITA under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).⁵

The Commission's advice in this report relates to a petition received by CITA on December 12, 2004, alleging that certain polyester fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for certain boys' apparel made in eligible CBTPA countries from such fabrics, regardless of the source of the fabrics.⁶

Discussion of the product

The petition states that the subject fabrics are classified in the Harmonized Tariff Schedule of the United States (HTS) under subheading 5407.53.20, which provides for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, of yarns of different colors, and weighing either not more than 170 grams per square meter, if a flat fabric (statistical reporting number 5407.53.2020) or more than 170 grams per square meter (5407.53.2060).⁷ The fabrics named in the petition are for use in boys' suits, suit-type jackets and blazers (sport coats), and trousers, in sizes 2T-20, which are classified in HTS chapter 62 (apparel, not knitted or crocheted). U.S. duty rates on such apparel are 27.3 percent ad valorem for the suits (subheading 6203.12.20) and sport coats (6203.33.20) and 27.9 percent ad valorem for the trousers (6203.43.40).⁸

⁵ For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at www.usitc.gov/332s/shortsup/shortsupintro.htm.

⁶ The President may proclaim such action if (1) he determines that the subject fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner; (2) he has obtained advice from the Commission and the appropriate advisory committee; (3) he has submitted a report, within 60 calendar days after the request, to the House Committee on Ways and Means and the Senate Committee on Finance, that sets forth the action proposed, the reasons for such action, and advice obtained; (4) a period of 60 calendar days, beginning with the day on which he has met the requirements of (3), has expired; and (5) he has consulted with such committees on the proposed action during the 60-day period referred to in (3). In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

⁷ The fabrics named in the July 2004 petition were classified in the HTS under four statistical reporting numbers that provide for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, depending on fabric weight and whether the fabrics were dyed (5407.52.2020 and 5407.52.2060) or made of yarns of different colors (5407.53.2020 and 5407.53.2060). The current petition excludes the two statistical reporting numbers for the dyed fabrics.

⁸ Separate data on U.S. imports of the specified fabric or boys' apparel are not available because, for tariff and statistical reporting purposes, the fabric and apparel are grouped with other related fabrics or apparel articles, respectively.

The fabrics named in the current petition,⁹ like those named in the July 2004 petition, are made (1) wholly of polyester filament yarns, (2) in plain, twill, and satin weave patterns, and (3) from yarns of different sizes (in combinations of 75, 100, 150, and 300 denier)¹⁰ and either 100-percent cationic yarns or different mixtures of cationic and disperse fibers (the mixtures, expressed as a percentage by weight, are 25-75, 50-50, and 75-25).¹¹ However, the current petition limits the product coverage to fabrics that are made with “at least three different yarns, each of which is of a different color,” and for use in the specified boys’ apparel. The fabrics named in the July 2004 petition could be dyed in fabric form (“piece-dyed”) or made from “yarns of different colors,” with no requirement that the fabrics had to contain a minimum number of different colored yarns.¹² In addition, the CITA notice requesting public comment on the July 2004 petition did not limit the fabrics to those for use in the specified boys’ apparel articles.

Fishman & Tobin imports children’s clothing made in CBTPA countries either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua. A trade report states that the firm “controls some 90 percent of the boys’ dresswear market” (suits, dress shirts, blazers and pants).¹³ According to Fishman & Tobin, ***.¹⁴ Fishman & Tobin sources the subject fabric from Taiwan ***. The current petition references the July 2004 petition in which Fishman & Tobin states that it intended to purchase the subject fabrics in lots of 25,000 to 50,000 yards (approximately 22,900 to 45,700 meters).

Discussion of affected U.S. industries, workers, and consumers

Fabric segment¹⁵

There are no known producers of the subject fabrics in the United States. An official of ITG stated that the firm’s Burlington Division produces 100-percent polyester fabrics from cationic-disperse yarns but not in the specifications stated in the current petition.¹⁶ ***

Yarn segment

An official of Unifi, Inc., Greensboro, NC, stated that the firm’s domestic production includes the capability to produce polyester filament yarns of a kind used in the subject fabrics.¹⁷ Although Unifi opposed the July 2004 petition,¹⁸ the Unifi official said the firm does not oppose the current petition ***.

⁹ Information on the fabrics is from the petitions filed with CITA on behalf of Fishman & Tobin, July and Dec. 2004; email correspondence with Fishman & Tobin and its counsel, Aug. 2004; and an interview by Commission staff with Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, Jan. 2005.

¹⁰ Denier is a measure of the linear density, or weight per unit length, of a yarn. It indicates the weight, in grams, of 9,000 meters of yarn (the higher the denier number, the heavier or thicker the yarn).

¹¹ The petition states that more than one color can be used in one dye vat and each color will adhere to either a cationic or disperse yarn. It states that the use of such yarns results in a high-quality fabric, with a variety of color and background effects that cannot be duplicated with the use of disperse yarns alone. However, fabrics made of 100-percent cationic yarns may not result in a fabric containing more than one color, ***.

¹² The fabrics named in the July 2004 petition generally contained two different colored yarns, according to Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, interview by Commission staff, Jan. 2005.

¹³ See “The Present: Offering a True Competitive Advantage,” *DNR (Daily News Record)*, Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

¹⁴ Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin.

¹⁵ In a written statement to CITA of Aug. 2004, Ben Shoaf, President, Apparel & Specialty Fabrics Division, Milliken & Co., Spartanburg, SC, stated that the firm had the capability to produce commercial quantities of the fabrics named in the July 2004 petition. In a telephone interview by Commission staff in Sept. 2004, a Milliken official (***) said the firm does not make the specified fabrics.

¹⁶ Information on ITG is from Jeff Peck, Product Manager, ITG, telephone interview by Commission staff, Jan. 2005.

¹⁷ Information on Unifi is from Jane L. Johnson, Government Relations Manager, Unifi, Inc., telephone interview by Commission staff, Jan. 2005.

¹⁸ Thomas H. Caudle, Jr., Vice President, Global Operations, Unifi, Inc., written submission to CITA, Aug. 2004.

An official of Dillon Yarn Corp., Dillon, SC, stated that the firm produces or can produce polyester filament yarns of a kind used in the subject fabrics.¹⁹ ***

Apparel segment

The U.S. market for boys' dress clothing is supplied almost entirely by imports. As noted above, Fishman & Tobin reportedly accounts for almost all of this market and it currently makes or sources the garments abroad, such as in CBTPA countries.

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice²⁰

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of boys' suits, sport coats, and trousers (in sizes 2T-20) made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, would likely have a negligible adverse effect on U.S. yarn and fabric producers and their workers. Although there is no known domestic production of the subject fabrics, the proposed preferential treatment could reduce demand for U.S.-made polyester fabrics that may be substitutable for the subject fabrics and, in turn, reduce demand for U.S.-made yarns used in such fabrics.

The proposed preferential treatment would likely have no adverse effect on U.S. apparel producers or their workers because the domestic market for boys' dress clothing reportedly is supplied almost entirely by imports. As such, any increase in imports of the specified boys' apparel from eligible CBTPA countries as a result of the proposed preferential treatment would displace imports from other, mainly Asian, countries. The proposed preferential treatment would likely benefit U.S. firms making the boys' apparel in eligible CBTPA countries by increasing the supply and availability of the subject fabrics. U.S. consumers also would likely benefit to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the duty rates on the boys' apparel articles are about 27 percent ad valorem.

¹⁹ Information on Dillon Yarn is from Shawn Dougherty, Director, Strategy and Trade Affairs, Dillon Yarn Corp., Dillon, SC, telephone interviews by Commission staff, Aug. 2004 and Jan. 2005.

²⁰ The Commission's advice is based on information currently available to the Commission.